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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

**In re Application of:**  
**Harif**

Serial No. 09/752,072

**Filed: December 29, 2000**

For: SYSTEM, METHOD, AND  
PROGRAM FOR BIDDING FOR  
BEST SOLUTION PROCESS  
EXECUTION IN A  
HETEROGENEOUS NETWORK

Group Art Unit: 3621  
Examiner: Bradley B. Bayat

Atty. Dkt. No. AUS9000879US1  
(5468-06700)

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04/11/2005  
Date

Kevin L. Daffer

**APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

**Sir/Madam:**

Further to the Notice of Appeal faxed on February 10, 2005, the Appellant presents this Appeal Brief. The Notice of Appeal was filed following receipt of a final Office Action mailed November 10, 2004. The Appellant hereby appeals to the Board of Patent Appeals and Interferences the final rejection of claims 1-30 and respectfully requests that this appeal be considered by the Board.

### I. REAL PARTY IN INTEREST

The subject application is owned by International Business Machines Corporation, a corporation having its principal place of business at New Orchard Road, Armonk, New York, 10504, as evidenced by the assignment recorded at Reel 011428, Frame 0379.

## **II. RELATED APPEALS AND INTERFERENCES**

No other prior and pending appeals, interferences, or judicial proceedings are known to Appellant or Assignee which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

## **III. STATUS OF CLAIMS**

Claims 1-30 stand finally rejected. No claims have been allowed, withdrawn, objected to or canceled. Claims 1-30 are being appealed.

## **IV. STATUS OF AMENDMENTS**

No amendments to the claims have been filed subsequent to their final rejection. The Claims Appendix attached hereto reflects the current state of the claims.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

Appellant's claimed subject matter includes a system for bidding for a process execution over a heterogeneous network comprising a network server, a network client and a network host. In addition, the Appellant's claimed subject matter includes a method for soliciting a bid for a process execution associated with a task. (Specification – page 11, lines 6-8 and page 17, line 28). Furthermore, the Appellant's claimed subject matter includes a computer-usable carrier medium having program instructions which are executable on a computational device for performing such a method. (Specification – pages 16 and 17, lines 29-30 and 1-3, respectively, Fig. 4). The claimed system, method and carrier medium are configured for a network server to receive a payload which includes specifications for a process execution associated with a task. (Specification – pages 12 and 13, lines 22-30 and 1-2, respectively). In addition, the claimed system, method and carrier medium are configured for the network server to simulate the process execution by estimating computing resources required to carry out the process execution associated with the task (Specification – page 28, lines 26-27) and provide a bid solicitation for the process execution from a network host (Specification – page 29, lines 2-3).

**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1-30 are rejected under 35 U.S.C § 102(e) as being anticipated by U.S. Patent Application No. 2003/0101124 to Semret et al. (hereinafter referred to as "Semret").

**VII. ARGUMENT**

The contentions of the Appellant with respect to the ground of rejection presented for review, and the basis thereof, with citations of the statutes, regulations, authorities, and parts of the record relied on are presented herein for consideration by the Board.

**A. Patentability of Claims 1-13**

1. **Semret fails to teach or suggest a system with a network server configured to provide a bid solicitation from a network host for a process execution requested by a network client.**

Independent claim 1 recites:

A system for bidding for a process execution over a heterogeneous network, said system comprising a network server adapted to receive a payload over the heterogeneous network from a network client, wherein the payload comprises specifications for a process execution associated with a task, wherein the server is further adapted to ... provide a bid solicitation for the process execution from a network host.

Although Semret teaches a network system including several different agents for processing a bid for a resource (i.e., player (buyer and seller) agents 102, resource agent 104, accounting agent 106, network control and management agent 108, and resource 110), Semret fails to teach the solicitation of a resource bid among any of the agents. Rather, Semret merely teaches software player agent 102 placing bids to resource agent 104 (*see* Semret, paragraph 0033) without any teaching or suggestion of resource agent 104 soliciting such bids from player agent 102. Furthermore, there is no teaching or suggestion within Semret to solicit bids from a network host by an agent which is distinct from the agent requesting the resource as recited in claim 1. In particular, Semret fails to teach or suggest any of agents 102, 104, 106, 108 or 110 receiving a request for a resource from any of such agents and providing a bid solicitation for the resource to a different agent. As such, Semret fails to anticipate such limitations of claim 1.

**2. Semret fails to teach or suggest a network server that simulates a process execution requested from a network client.**

Independent claim 1 recites:

A system for bidding for a process execution over a heterogeneous network, said system comprising a network server adapted to receive a payload over the heterogeneous network from a network client, wherein the payload comprises specifications for a process execution associated with a task, wherein the server is further adapted to simulate the process execution ... .

There is no teaching or suggestion of simulating a process execution associated with a requested resource by any of the agents taught in Semret. As noted above, Semret teaches software player agent 102 placing bids to resource agent 104. In particular, Semret teaches software player agent 102 using valuation rules 124 (i.e., rules for determining the value of a resource), strategy rules 126 (i.e., rules for determining a strategy for bidding against other player agents) and allocation rules 128 (i.e., rules resource agent 104 uses for allocating a resource between buyers) to determine whether to make a bid offer and at what value (see Fig. 3 and paragraphs 0038-0040). Such rules, however, do not simulate a process execution associated with a requested resource. Furthermore, none of agents 104, 106, 108, and 110 simulate a process execution associated with a requested resource. In particular, resource agent 104 merely analyzes bid offers received from player agents and decides the allocation of the resource among the players agents based on the bid offers (see Fig. 2). In response to such an allocation, "... network control and management agent 108 controls resource 110 to implement the allocation command received from resource agent 104." (Semret, paragraph 0035). Since there is no teaching or suggestion of simulating a process execution associated with a resource by any of such agents, Semret fails to anticipate the limitations of claim 1.

**3. Semret fails to teach or suggest estimating computing resources required to carry out the process execution.**

Independent claim 1 recites:

A system for bidding for a process execution over a heterogeneous network, said system comprising a network server adapted to receive a payload over the heterogeneous network from a network client, wherein the payload comprises specifications for a process execution associated with a task, wherein the server is further adapted to simulate the process execution by estimating computing resources required to carry out the process execution ... .

There is no teaching or suggestion of estimating computing resources required to carry out a process execution associated with a requested resource by any of the agents taught in Semret. As noted above in Argument 2, the functions of the agents taught in Semret are clearly defined and do not include any processes which estimate computing resources for a process execution associated with a requested resource. As such, Semret fails to anticipate such limitations of claim 1.

### **Conclusion**

As explained in Arguments 1-3 above, the limitations of claim 1 are not taught or suggested by Semret and, therefore, Semret fails to anticipate the limitations of claim 1. For at least these reasons, independent claim 1 is patentably distinct from Semret. Since claims 2-13 are dependent from claim 1, claims 2-13 are patentably distinct from Semret for the same reasons as that claim. Therefore, the §102(c) rejection of claims 1-13 over Semret is asserted to be erroneous.

### **B. Patentability of Claims 14-28**

1. **Semret fails to teach or suggest a method for soliciting a bid for a process execution associated with a task.**

Independent claim 14 recites "[a] method for bidding for a process execution over a heterogeneous network ..." As noted above in the arguments regarding the patentability of claims 1-13, Semret fails to teach the solicitation of a resource bid among any of the agents within the system taught therein. As such, Semret fails to teach or suggest a method for such a process. Consequently, Semret fail to anticipate the limitations of claim 14.

2. **Semret fails to teach or suggest simulating a process execution for a task associated with a payload received on a server.**

Independent claim 14 recites:

A method for soliciting a bid for a process execution associated with a task, said method comprising: receiving a payload on a server, wherein the payload comprises specifications for a process execution associated with a task; simulating the process execution from the payload ...

As noted above in the arguments regarding the patentability of claims 1-13, there is no teaching or suggestion of any of the agents taught in Semret simulating a process execution associated with a requested resource. As such, Semret fails to anticipate the limitations of claim 14.

**3. Semret fails to teach or suggest estimating computing resources required to carry out a process execution for a task.**

Independent claim 14 recites:

A method for soliciting a bid for a process execution associated with a task, said method comprising: receiving a payload on a server, wherein the payload comprises specifications for a process execution associated with a task; simulating the process execution from the payload by estimating computing resources required to carry out the process execution associated with the task ...

As noted above in the arguments regarding the patentability of claims 1-13, there is no teaching or suggestion in Semret of any of the agents taught therein estimating computing resources required to carry out a process execution associated with a requested task. As such, Semret fails to anticipate the limitations of claim 14.

**Conclusion**

As explained in Arguments 1-3 above, the limitations of claim 14 are not taught or suggested by Semret and, therefore, Semret fails to anticipate the limitations of claim 14. For at least these reasons, independent claim 14 is patentably distinct from Semret. Since claims 14-28 are dependent from claim 14, claims 14-28 are patentably distinct from Semret for the same reasons as that claim. Therefore, the §102(e) rejection of claims 14-28 over Semret is asserted to be erroneous.

**C. Patentability of Claims 29-30**

**1. Semret fails to teach or suggest a computer-usable carrier medium with programming instructions executable on a computational device for simulating a process execution for a task.**

Independent claim 29 recites "[a] computer-usable carrier medium, comprising ... second programming instructions executable on the computational device for simulating the process specified by the payload ... ." As noted above in the arguments regarding the patentability of claims 1-13, there is no

teaching or suggestion of any of the agents taught in Semret simulating a process execution associated with a requested resource. As such, Semret fails to anticipate the limitations of claim 29.

2. **Semret fails to teach or suggest a computer-usable carrier medium with programming instructions executable on a computational device for estimating computing resources required to carry out a process execution for a task.**

Independent claim 29 recites "[a] computer-usable carrier medium, comprising ... second programming instructions executable on the computational device for simulating the process specified by the payload by estimating computing resources required to carry out the process execution associated with the task ... ." As noted above in the arguments regarding the patentability of claims 1-13, there is no teaching or suggestion in Semret of any of the agents taught therein estimating computing resources required to carry out a process execution associated with a requested task. As such, Semret fails to anticipate the limitations of claim 29.

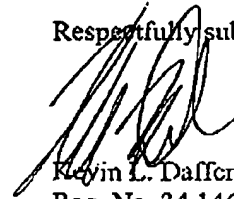
### **Conclusion**

As explained in Arguments 1-3 above, the limitations of claim 29 are not taught or suggested by Semret and, therefore, Semret fails to anticipate the limitations of claim 29. For at least these reasons, independent claim 29 is patentably distinct from Semret. Since claim 30 is dependent from claim 29, claim 30 is patentably distinct from Semret for the same reasons as that claim. Therefore, the §102(c) rejection of claims 29 and 30 over Semret is asserted to be erroneous.

### **CONCLUSION**

For the foregoing reasons, it is submitted that the Examiner's rejection of claims 1-30 was erroneous, and reversal of the decision is respectfully requested.

Respectfully submitted,



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### **VIII. CLAIMS APPENDIX**

The present claims on appeal are as follows.

1. A system for bidding for a process execution over a heterogeneous network, said system comprising a network server adapted to receive a payload over the heterogeneous network from a network client, wherein the payload comprises specifications for a process execution associated with a task, wherein the server is further adapted to simulate the process execution by estimating computing resources required to carry out the process execution associated with the task, and provide a bid solicitation for the process execution from a network host.
2. The system as recited in claim 1, wherein the system further comprises a financial resolution center.
3. The system as recited in claim 1, wherein the heterogeneous network comprises a network of computational devices.
4. The system as recited in claim 1, wherein the heterogeneous network is absent information sent thereacross for maintaining secure access thereto.
5. The system as recited in claim 3, wherein the network of computational devices comprises a network of multiple platforms.
6. The system as recited in claim 1, wherein the payload is encrypted.
7. The system as recited in claim 1, wherein the bid solicitation is encrypted.
8. The system as recited in claim 1, wherein providing a bid solicitation comprises providing a process simulation data set.
9. The system as recited in claim 2, wherein the network server is further adapted to receive a bid for the process execution.

10. The system as recited in claim 9, wherein the network server is further adapted to validate the bid with the financial resolution center.

11. The system as recited in claim 10, wherein the network server is further adapted to evaluate the bids.

12. The system as recited in claim 11, wherein evaluating the bids comprises mediating negotiations between the network host and the network client, wherein the negotiations relate to the process execution.

13. The system as recited in claim 12, wherein the network server is further adapted to maintain confidentiality as to the identity of the network client and the network host.

14. A method for soliciting a bid for a process execution associated with a task, said method comprising:

receiving a payload on a server, wherein the payload comprises specifications for a process execution associated with a task;

simulating the process execution from the payload by estimating computing resources required to carry out the process execution associated with the task; and

providing a bid solicitation for the process execution.

15. The method as recited in claim 14, wherein simulating the process comprises executing a portion of the process.

16. The method as recited in claim 14, wherein providing a bid solicitation comprises providing a process simulation data set, and wherein the process simulation data set provides information associated with the process execution related to the task.

17. The method as recited in claim 14, wherein the payload is received from a network client.

18. The method as recited in claim 14, wherein the payload further comprises:  
  
a security permission dataset related to the identity of the task and the identity of the network client requesting process execution associated with the task;  
  
and a financial data set related to the budget of the task.
19. The method as recited in claim 18, further comprising validating the payload with a financial resolution center, wherein the financial resolution center is adapted to authenticate the financial data set.
20. The method as recited in claim 14, further comprising receiving a bid from a network host.
21. The method as recited in claim 20, wherein the bid comprises:  
  
a bid data set relating to the compensation requested in exchange for the process execution;  
  
a host identity data set relating to the identity of the host providing the bid; and  
  
a capability data set, wherein the capability data set includes a capability index indicating the host's process execution history.
22. The method as recited in claim 21, further comprising validating the bid with a financial resolution center.
23. The method as recited in claim 14, wherein the payload is encrypted.
24. The method as recited in claim 20, wherein the bid is encrypted.
25. The method as recited in claim 17, wherein the server is unknown to the client.
26. The method as recited in claim 17, wherein the client is unknown to the server.
27. The method as recited in claim 20, wherein the host is unknown to the server.

28. The method as recited in claim 20, wherein the server is unknown to the host.
29. A computer-usable carrier medium, comprising:
- first programming instructions executable on a computational device for receiving a payload wherein the payload comprises specifications for a process to be executed; and
- second programming instructions executable on the computational device for simulating the process specified by the payload by estimating computing resources required to carry out the process execution associated with the task to quantify a bid amount for the process before execution of the process.
30. The carrier medium as recited in claim 29, further comprising third programming instructions executable on the computational device for providing a bid solicitation for the process execution.

**IX. EVIDENCE APPENDIX**

No evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title has been entered during the prosecution of the captioned case. In addition, no evidence has been entered by the examiner.

**X. RELATED PROCEEDINGS APPENDIX**

No other prior and pending appeals, interferences, or judicial proceedings are known to Appellant or Assignee which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.